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OFFICE OF PETITIONS

In re
Dodo, et al.
Application No. 09/715,036
Filed: November 20, 2000
Patent No. 6,943,010
Issued: September 13, 2005

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed November 14, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred eighty-nine (189) days to three hundred nine (309) days.

The application for patent term adjustment is GRANTED.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred nine (309) days**.

On August 30, 2004, applicants timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA was not zero (0) days, but fifty-two (52) days. The application for patent term adjustment was granted in a decision mailed on July 14, 2005. On September 13, 2005, the above

identified application issued into patent No. 6,943,010. The patent stated that the patent term adjustment (PTA) is one hundred eighty-nine (189) days.

Patentees point out that they were improperly assessed applicant delay of one hundred twenty (120) days for filing the application for patent term adjustment on August 30, 2004.

Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **three hundred nine (309) days**.

Given the basis for granting this petition, the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) has been refunded to Deposit Account No. 19-0741.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **three hundred nine (309) days**.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction